



How Much Should Lawyers Charge?

By: Allison C. Shields

The bad news is there's no 'easy' way to set fees. The good news is that if done right, your fees can be a real selling point.

I was privy to an interesting conversation yesterday among a number of lawyers in response to one attorney marketing himself as the 'lowest priced.' Not surprisingly, some reacted to the issues of 'commoditization' of the legal practice and competition based upon price alone. I think that competing solely on price isn't the best way to go for marketing legal services. But this post isn't about marketing, it's about fees.

One contribution to this discussion was that lawyers shouldn't raise their rates just because everyone else is charging a higher amount for a particular service. This same contributor opined that lawyers' rates should be based upon experience and 'what it takes to be profitable.'

While I don't necessarily disagree that raising rates just because another firm does is the way to go, I have to wonder why some attorneys seem to believe that raising rates is inherently 'bad' - that charging a higher rate when they 'can' do the work for less is somehow unprofessional. Why should lawyers undervalue their services?

Although I didn't probe this particular attorney for further insight, it would seem that setting fees based solely on experience and 'what it takes to be profitable' fails to take into account an individual lawyer (or law firm's) unique skills and talents (as distinct from 'experience'), creativity and innovation. And how does one define what it takes to be 'profitable?' If 'profitable' means that the income exceeds the expenses for that particular matter, how much over the expenses is it 'appropriate' for an attorney to charge? \$1? \$10? \$100? \$1000? Why shouldn't a lawyer that brings a unique perspective or a unique way of resolving a client's problem be able to charge more? Are lawyers, as professionals, somehow obligated to limit themselves to a particular profit margin?

Basing fees solely on what's 'profitable' for the lawyer implies that the value of the lawyer's services is determined by the cost to provide those services. In reality, this is rarely the case. We accept that cost isn't the only factor in determining price or value in other areas. It is understood that the price we pay for art, or electronics or clothing isn't based solely on the cost to manufacture those items, but also takes into account the value we place on those items. We accept that the individual that comes up with the 'next great idea' for a product that saves us time and effort is worthy of receiving large sums of money for their invention. But for some reason, many refuse to accept this principle when it comes to legal fees and innovating legal thinking. Lawyers contribute to the problem by 'educating' the public to determine legal fees based solely on the number of hours worked.

This brings me back once again to value based fees; if fees are based upon the value the lawyer's services bring to the client, the amount of the lawyer's 'profit' is

irrelevant. Indeed, many times, a client is much better served with a creative solution that takes much less time than a 'tried and true' solution which takes longer to complete. If the lawyer's fee is based solely on the 'quantifiable' input to the case - time and expenses, and perhaps even experience, the lawyer's fee will likely be much lower for the lawyer that got the client the quick, creative result. This kind of pricing puts the lawyer and the client in conflict, and discourages creative, innovative problem solving.

If lawyers focus on the benefits to their clients as a result of the lawyer's services, rather than the number of hours worked on a matter or the cost to the lawyer of achieving the result, chances are that both lawyers and their clients would be much more satisfied and the quality of the legal services provided would be better; lawyers would be motivated to provide the best solutions for their clients - not merely the most costly ones or the ones that take the most time.

Of course, I'm not suggesting that all lawyers that charge based on hours billed are providing lesser quality service. But the inherent conflicts in the hourly billing system are troubling, particularly when this system leads lawyers and non-lawyers alike to conclude that there's something 'wrong' with lawyers profiting from their work or raising their rates. If lawyers don't value the services they provide to clients, how can they expect the clients to value them?

It's worth considering also that higher rates can also ultimately benefit the client. If at least some of the profit earned by a law firm is re-invested in the firm - in the personal and professional development of the lawyers and staff, in recruiting the best people to serve the client, in technology which makes the job easier, faster, more efficient, in researching ways to better serve the client - those 'higher rates' or 'additional profits' add up to a better experience and higher quality service for the client. And obviously, firms that are in a better financial position are often in a better position to give back to the community in other ways as well, by contributing financially and providing pro bono services. Lawyers that are merely subsisting are arguably in a much weaker position and are less able to be effective in helping their clients and the community at large.



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